



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Blair Winner )  
Serial No.: 09/922,139 )  
Filed: August 3, 2001 )  
For: Marigold Hybrid 50011 )

Group Art Unit: 1661  
Examiner: A. Para

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Commissioner For Patents  
Washington, D.C. 20231

**DECLARATION AS TO THE DEPOSIT OF SEEDS**

Sir:

1. I, Lisa V. Mueller, am the attorney-of-record in the above-mentioned pending U.S. Patent Application Serial No. 09/922,139 entitled, "Marigold Hybrid 50011" which was filed on August 3, 2001 in the United States Patent and Trademark Office;

2. Two thousand five hundred seeds (2500) of Marigold Hybrid 50011 were deposited on June 16, 2000 pursuant to the Budapest Treaty at the American Type Culture Collection, 10801 University Blvd., Manassas, Virginia 20110-2209;

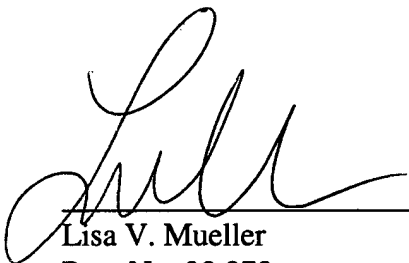
3. This deposit meets the criteria set forth in 37 C.F.R. Sections 1.801-1.809. The deposit is designated as PTA-2100;

4. These seeds will be available during the pendency of the above-identified patent application to one determined by the Commissioner of Patents and Trademarks to be entitled thereto under 37 C.F.R. Section 1.14 and 35 U.S.C. Section 122;

5. Upon issuance of a patent on the above-identified application, all restrictions as to public availability of this seed deposit will be irrevocably and without restriction or condition removed and said seed deposit will be replaced should the depository be unable to distribute the sample upon a proper request, during the period that extends thirty years from the date of deposit,

or the period of the enforceable life of the patent, or the period of five years after the last public request for the deposit, whichever period is longest. However, it is to be understood that the availability of a deposit does not constitute a license to practice the subject invention in derogation of patent rights granted by governmental action; and

6. I declare further that all statement made on information and belief are believed to be true, and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the instant patent specification or any patent issuing thereon.

  
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Lisa V. Mueller  
Reg. No. 38,978  
Attorney for Applicants

9-23-02  
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Date